

Assembly Bill No. 124

Passed the Assembly July 6, 2009

Chief Clerk of the Assembly

Passed the Senate June 29, 2009

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2009, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add Section 9723.3 to the Business and Professions Code, relating to cemeteries, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 124, Galgiani. Cemeteries: temporary manager.

Existing law, the Cemetery Act, provides for the licensing and regulation of certain private cemeteries by the Cemetery and Funeral Bureau. Existing law requires all cemeteries for which a certificate of authority is required to be supervised by a licensed cemetery manager, and prohibits a person from engaging in the business of, acting as, or advertising as, a cemetery manager without a license from the bureau and without being employed by, or a corporate officer of, a licensed cemetery.

This bill would, notwithstanding any other provision of law, authorize a court of competent jurisdiction, based upon the court's finding that a cemetery manager of a private cemetery has ceased to perform his or her duties due to a lapse, suspension, surrender, abandonment, or revocation of his or her license, to appoint a temporary manager to manage the property of, and certain services provided by, the private cemetery, as provided, for a limited term of 6 months or until a new licensed cemetery manager is hired. The bill would permit the court to authorize the payment of reasonable compensation for the temporary manager's services, to be paid by the trustees from available income from the cemetery, as provided.

This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 9723.3 is added to the Business and Professions Code, to read:

9723.3. (a) Notwithstanding any other provision of law, based upon a finding by a court of competent jurisdiction that a cemetery manager of a private cemetery has ceased to perform his or her

duties, as described in subdivision (a) of Section 9605.1, due to a lapse, suspension, surrender, abandonment, or revocation of his or her license, the court may appoint a temporary manager to manage the cemetery property and to service the prepaid interments of the private cemetery. The court shall appoint a licensed cemetery manager as the temporary manager.

(b) The appointed temporary manager shall have the same powers over the care and maintenance of the private cemetery as a licensed cemetery manager, as described in subdivision (a) of Section 9605.1. The temporary manager shall serve for a limited term not to exceed six months, or until a new licensed manager has been hired, at which time the court shall terminate the appointment of the temporary manager.

(c) The court may authorize the payment of reasonable compensation for the temporary manager's services, which shall be paid by the trustees from available income from the cemetery. In exercising its discretion pursuant to this subdivision, the court shall give due consideration to the ability of the cemetery income to otherwise pay for care and maintenance of the cemetery.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to prevent the prolonged absence of management of certain private cemeteries, and to ensure the public health and safety of the communities in which those private cemeteries are located at the earliest possible time, it is necessary that this act take effect immediately.

Approved _____, 2009

Governor